

STATE OF MICHIGAN
COURT OF APPEALS

LAWANDA RENEE STEVENSON,

Plaintiff-Appellant,

v

ALLSTATE INSURANCE COMPANY,

Defendant,

and

TYRONE DAVENPORT,

Defendant-Appellee.

UNPUBLISHED
February 12, 2008

No. 275501
Wayne Circuit Court
LC No. 05-520063-NI

Before: Talbot, P.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant Tyrone Davenport's motion for summary disposition pursuant to MCR 2.116(C)(10), based on the court's determination that plaintiff did not sustain a serious impairment of body function pursuant to MCL 500.3135. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews de novo the trial court's order granting or denying summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

A plaintiff may recover noneconomic damages under the no-fault act only where the plaintiff has suffered "death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). The issue whether a person has suffered a serious impairment of body function is a question of law for the court to decide if the court determines that "[t]here is no factual dispute concerning the nature and extent of the person's injuries" or that "[t]here is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function." MCL 500.3135(2)(a). "[S]erious impairment of body function means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life." MCL 500.3135(7).

To meet the requisite threshold, the impairment of an important body function must affect the course or trajectory of a person's normal life. *Kreiner v Fischer*, 471 Mich 109, 130-131; 683 NW2d 611 (2004). "In determining whether the course of the plaintiff's normal life has been affected, a court should engage in a multifaceted inquiry, comparing the plaintiff's life before and after the accident as well as the significance of any affected aspects on the course of the plaintiff's overall life." *Id.* at 132-133. The court must analyze whether any difference has actually affected the plaintiff's general ability to conduct the course of his or her life. *Id.* at 133. The court may consider factors such as "(a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment, and (e) the prognosis for eventual recovery." *Id.* at 133 (footnotes omitted).

The accident occurred on April 2, 2004, when defendant's vehicle collided with plaintiff's Aerostar van. An MRI on May 10, 2004, showed an "annular bulge" at L5-S1. Plaintiff's course of treatment included injections and approximately six months of physical therapy.

Before and after the accident, plaintiff worked as a tech sergeant for the United States Air Force. She was a client support administrator and her job duties were like those of an administrative assistant, e.g., typing, filing, and computer work. Because of her association with the military, she was required to participate in physical training. An individual is required to pass the program to be "world life qualified." According to plaintiff's affidavit, until December 2005, she was deemed medically unqualified by the Air Force, which resulted in: (1) her ineligibility for promotion and a resulting loss of income of approximately \$18,000; (2) ineligibility for deployment to Iraq, which would have allowed her additional income of \$60,000; and (3) inability to train on her "war fighting skills which had an adverse impact on [her] military skills and career."

On appeal, plaintiff concedes that she has no residual impairment and that her prognosis for eventual recovery is not an issue.

Residual impairment is not essential to establishing a threshold injury. In fact, "an impairment of short duration may constitute a serious impairment of body function if its effect on the plaintiff's life is extensive." *Williams v Medukas*, 266 Mich App 505, 508; 702 NW2d 667 (2005). If the plaintiff claims a *temporary* serious impairment, but the plaintiff's life before the accident is not substantially different than afterward and the evidence does not show that the plaintiff's general ability to lead her normal life was affected, she has failed to satisfy the *Kreiner* standard. *Nicke v Miller*, 477 Mich 954; 723 NW2d 908 (2006) (emphasis added).

In this case, plaintiff claims a temporary impairment that lasted approximately 18 months from April 2004 until December 2005, when she was released from her military "medical profile." Although plaintiff relies on the effect that the injury had on her military career as the basis for arguing that she suffered a serious impairment of an important body function, in this respect, her life after the accident is not substantially different than it was before. She acknowledges that she is no longer on a military medical profile and that she received her

promotion in March 2006. Under the circumstances, the trial court did not err in determining that plaintiff failed to meet the threshold in MCL 500.5135 as interpreted in *Kreiner, supra*.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Brian K. Zahra